

UNITED STATES DEPARTMENT OF AGRICULTURE
FOREST SERVICE
630 Sansome Street
San Francisco, California 94111

2720 (2300)

February 12, 1975



Honorable Alphonzo Bell
House of Representatives

Dear Mr. Bell:

Your request for information and letter from Jean Koch of Los Angeles, California, have been forwarded to me by Chief McGuire for response. Ms. Koch asks you to intervene on behalf of Mrs. Barboni, primary user of a cabin owned by L. C. Barboni, whose special-use permit in East Mineral King Tract on the Sequoia National Forest, is being terminated.

By letter of December 27, 1974, Forest Supervisor John Leasure notified Mr. Barboni that his special-use permit in Mineral King would terminate December 31, 1975. This action was taken in conformance with clause 38 of Mr. Barboni's use permit, signed by Mr. Barboni in 1957. Clause 38 of the permit provided that the permit could be terminated as of January 1, 1975. On four different occasions (1965, 1967, 1968, 1972), Mr. Barboni was notified of the impending need to terminate his special-use permit to allow for public recreation development. On December 14, 1974, Mr. Barboni and Mrs. Dorothy Barboni were notified by telephone that their permit would be terminated as provided for in clause 38 of Mr. Barboni's permit. On December 27, 1974, Forest Supervisor Leasure formally notified Mr. Barboni that his special-use permit was being terminated December 31, 1975, so that the site could be made available for use by the general public.

As provided for under the new appeal regulations, Mr. L. C. Barboni (through Mrs. Dorothy Barboni and attorney Gareth W. Houk) filed a request for administrative review. An extension was granted to permit more time for Mr. Barboni's attorney to prepare the required statement of reasons. When this is received, the complete case record will be reviewed and I will make a decision in the matter.

For your further information, I am enclosing a copy of Mr. Leasure's decision letter of December 27, 1974, and a status report of this case prepared by the Sequoia National Forest.

I hope this information will assist you in your review and response to Ms. Koch.

Sincerely,

JOHN A. VANCE

for DOUGLAS R. LEISZ
Regional Forester

Enclosures

UNITED STATES DEPARTMENT OF AGRICULTURE
FOREST SERVICE

Sequoia National Forest
900 W. Grand Avenue
Porterville, California 93257

REPLY TO: 2720 Special Uses

December 27, 1974

SUBJECT: Residence - Lot No. 5, East Mineral King
Barboni, L.C. (2/27/57)

TO: Mr. L. C. Barboni
1531 Ellis Street, Apt. 5
Concord, California 94520

#465678
CERTIFIED MAIL - RETURN RECEIPT REQUESTED



Dear Mr. Barboni:

It may appear that out of a big bureaucracy such as the Federal Government, decisions are made without much feeling for the interests and personal rights of the individual. In your case, you and your family have been a part of Mineral King and its history since the early 1900's. Your love and understanding of the area is evident from my staff's discussions with you, and by your family's constant visit to your cabin there.

The following decision was made after considering the alternatives, public needs in Mineral King, and your desires to keep the cabin. While we sympathize with your desires to retain your improvements at Mineral King for the exclusive use of your family and friends, we must also consider the needs of all other people who would like a chance to use this area. The fact that this area would be needed for general public use was recognized when the present permit was issued in 1957. Quoted below is clause 38 from your 1957 permit:

"Since the area occupied by this cabin will in all probability be needed for general public use, such as camping, in the not too distant future, this permit:

1. Can be revoked as of January 1, 1975.
2. If cabin is over 50% destroyed, cabin will not be rebuilt.
3. This permit will in no case be transferred from either or both of the present permittees."

The site on which your cabin is located is central to public use of the area for parking. Lack of adequate public parking is a limiting factor in the recreational use of Mineral King. It appears that the

private landowner in Mineral King is about to restrict present public parking on his property because of adverse impacts. This will reduce public use of the area by 30 to 40 groups or families. Utilization of the site on which your cabin now stands would help to maintain the general public use at its current level. This general public use is considered a higher need for this site than that of a private recreation residence. Therefore, as per clause 38, we are revoking your permit so that this site and some footage to the west may be used by the general public for parking. The effective date for this revocation will be December 31, 1975. You should remove your improvements and personal property by this date. If it is not possible to remove all improvements by December 31, 1975, we will allow you until June 15, 1976 to complete the removal. Those improvements not removed by June 15, 1976 will become the property of the United States Government.

On February 19, 1974 you received notification that your annual fee for the special-use permit was being established at \$275 per year, to be prorated over a four-year period. Because your permit is being revoked, the fee will not be raised, but will be kept at the \$50 rate for this last year; a Bill for Collection is enclosed. Your check for \$125 (which would have been the first year's proration) is being returned with this letter.

If you feel the decision to revoke your permit is contrary to, or in conflict with the facts, the law, or the regulations of the Secretary of Agriculture, or is otherwise in error, you have the right to appeal. You may, within 30 days of receipt of this letter, file a written notice with the Forest Supervisor, Sequoia National Forest, 900 W. Grand Avenue, Porterville, California 93257, stating the reason for your appeal. A copy of the new appeal regulations is attached for your information.

Please feel free to contact the Forest Supervisor's Office, or the District Ranger's Office at 32583 Highway 190, Porterville, California 93257, with any questions you may have on this matter.

Sincerely,

JOHN A. LEASURE
Forest Supervisor

Enclosures

cc: Regional Office - Division of Recreation
cc: Tule River

PJWyckoff:jj

all mail clerk 2720 (Return to sender Comara)
SENDER: Be sure to follow instructions on other side

PLEASE FURNISH SERVICE(S) INDICATED BY CHECKED BLOCK(S)
(Additional charges required for these services)

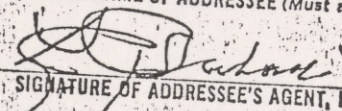
☐ Show address
where delivered

☒ Deliver ONLY
to addressee

RECEIPT

Received the numbered article described below

SIGNATURE OR NAME OF ADDRESSEE (Must always be filled in)

1 
2 SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

3 SHOW WHERE DELIVERED (Only if requested, and include ZIP Code)

REGISTERED NO.

CERTIFIED NO.

465678

INSURED NO.

DATE DELIVERED

12-31-74

STATUS REPORT
TERMINATION OF L. C. BARBONI SPECIAL USE PERMIT (2/27/57)
RECREATION RESIDENCE - LOT 5 - EAST MINERAL KING TRACT

PERMITTEE: L. C. BARBONI
1531 Ellis St., Apt. 5
Concord, California 94520

Permit issued 2/27/57 for recreation residence.

The L. C. Barboni residence is one of 24 under special use permit in the East Mineral King Tract in Mineral King Valley. The cabin, located on residence Lot #5, East Mineral King Tract, was built in the early 1900's. The cabin came to be known as the "Howard Cabin" and was under permit to Jeanette Howard.

Miss Howard conveyed the cabin to her nephews, F. C. and L. C. Barboni, in 1933. After her death in 1956, a new permit was made to the Barboni Brothers in 1957. This permit contained a special clause (Clause #38) which states: "Since the area occupied by this cabin will in all probability be needed for general public use, such as camping, in the not too distant future, this permit:

1. Can be revoked as of January 1, 1975.
2. If cabin is over 50% destroyed, cabin will not be rebuilt.
3. This permit will in no case be transferred from either or both of the present permittees."

In June, 1957, F. C. Barboni indicated the permit was satisfactory with the exception of Clause 38, Paragraph 3. He indicated that both he and L. C. Barboni were "perfectly agreeable... to the non-transfer of said permit." However, they felt they should have the privilege of buying out the undivided interest of the other brother if circumstances warranted. In July 1957 the permit was amended to allow transfer "of complete ownership from one of the brothers to the other."

✓ In September 1965, all permittees in Mineral King Valley were informed of the proposed development of the Mineral King area for winter sports and the impact it might have on their permits.

After the death of F. C. Barboni, the permit was amended in October 1965 to indicate only L. C. Barboni as the permittee.

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✓ In January 1967, L. C. Barboni was informed of the probability that his lot would be needed in the first stage of development of the proposed Mineral King project. That letter also indicated, "Clause 38 of your 1957 terminable special use permit may be misleading to you. It was the intent to put you on notice of probable future need for your lot. The wording, 'Can be revoked'... rather than 'Shall be revoked...' so stipulates. Clause 25, as it refers back to Clause 20, also indicates the higher priority of '...use of a more public nature'."

✓ In June of 1968, all permittees were informed that the impending Mineral King development would encompass nearly all summer home lots and that the permits would have to be terminated to allow public recreation development.

In 1970, parking was restricted to designated parking areas and camping to posted campgrounds in Mineral King Valley. These restrictions were for resource protection. Indiscriminate parking and camping was causing soil and vegetation damage along the main road and in the Upper Valley.

✓ In 1972, a letter was sent to Mr. L. C. Barboni stating in part that "Should the planned year-around recreational development fail to materialize, then a new recreation plan will be made for Mineral King. This plan probably would include increased camping sites in the Valley. Analysis of the area shows the most suitable public use sites fall with present summer home tracts. Either way, the tenure of Mineral King summer homes must be considered short lived."

In 1974, Walt Disney Productions indicated to this Forest they were receiving uncontrolled use on their private land. Because of the adverse impacts of this use that they had not authorized, Walt Disney Productions indicated they would restrict the parking on their land. The restriction will reduce public use of the area by 30-40 vehicles. In order to maintain the current level of use, the Forest Service must develop parking areas for 30-40 cars.

The Barboni cabin site is adjacent to an existing parking lot. The Barboni cabin site and the additional land to the west can be developed for parking at a minimal cost and with very little environmental disturbance. It is anticipated that parking for 30-40 cars can be provided at this site. The site is a logical choice for these reasons. No other site is as suitable. The permit recognizes the probable need for the site for general public use and the permittee has been notified of this several times since 1957.

On November 14, 1974, permittee Mr. L. C. Barboni and Mrs. Dorothy Barboni, wife of the late F. C. Barboni and primary user of the cabin, were notified

3.

by phone that the Forest Service was considering termination of the permit to provide for general public use of the area.

On December 27, 1974, Forest Supervisor John A. Leasure sent a letter to Mr. L. C. Barboni indicating that his special use permit was being terminated effective December 31, 1975, to allow general public use of the area for parking. Complete removal of the structure is required by June 15, 1976. Mr. Barboni was informed that the decision was appealable and was given a copy of the appeal regulations.

Mrs. Dorothy Barboni, acting in behalf of Mr. L. C. Barboni, requested a meeting with Forest Supervisor Leasure to discuss the special use permit. This meeting was held in the Sequoia National Forest Supervisor's Office in Porterville on January 28, 1975. The meeting was not a public hearing, although about 20 people attended. No official record or transcript was made of the discussion.

After the meeting, the permittee submitted a request for an administrative review of the decision to revoke the special use permit.

The permittee is now in the process of developing the supporting statement for the appeal. Upon receipt of the supporting statement from the permittee, the Forest Service will prepare a statement of facts and considerations upon which the decision was based. This will be sent to the permittee for comment and the entire record will be sent to the Regional Forester for review. The decision of the Regional Forester may be appealed to the Chief of the Forest Service. Decision of the Chief is final.